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of experts on human rights of migrants
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INFORMATION AND COMMENTS RECEIVED FROM GOVERNMENTS, UNITED NATIONS BODIES, SPECIALIZED AGENCIES, INTERGOVERNMENTAL AND NON-GOVERNMENTAL ORGANIZATIONS

Report of the Secretary-General

ANNEX

Submission from the Government of the Eastern Republic of Uruguay
dated 21 January 1998

GE.98-13137 (E)

QUESTIONNAIRE ON THE HUMAN RIGHTS OF MIGRANTS

1.1 The most recent figures of the number of persons resident in the country, born abroad by five-year periods by date of arrival in the country, by sex and age group and level of education were obtained in 1985. These figures indicate a total of 103.002 foreigners, as shown below:

Note: The graphs have been placed in the secretariat archives and may be consulted on request.

1.2 No overall records of Uruguayan nationals residing abroad are available. Emigration was particularly intense between 1970 and 1980 owing to the political situation, which prompted a large number of citizens to leave. Since 1985, as a result of the restoration of democratic conditions, very large numbers of nationals who were residing abroad as refugees have been returning. The return of Uruguayans was supported both technically and financially by UNHCR and IOM.

Total number of repatriations by geographical area (1985)

	Percentage	Total
Adjacent countries (Argentina, Brazil, Chile)	26.5	2 866
Rest of South America	8.5	915
Central America and Mexico	13	1 405
USA and Canada	2.7	297
Europe	41.4	4 476
Israel	0.6	68
Australia	1.9	210

Source: National Repatriation Commission, Report on Assisted Persons, January 1989.

1.3 Existing regulations contain nothing specific concerning this problem. In practice, any foreigner who obtains a Uruguayan identity card setting out his personal particulars, name, date and place of birth, together with certificates authenticated by the Consular authorities of his country of origin is entitled to work in Uruguay as a temporary resident for a period of one year. Subsequently, he must request permanent residence and explain how and why he wishes to remain in the country. A foreign worker enjoys all the rights to which the Uruguayan worker is entitled under the country's labour and social security legislation. Employers are liable to the penalties laid down by law if they fail to grant foreign workers equal treatment in employment.

1.4 No estimates are available on this subject. However, the freedom of entry into the country guaranteed by the Constitution and the country's policy of doing away with visa requirements in respect of European and American countries constitute the two basic factors that explain why there is virtually no illegal migration to Uruguay.

2. Uruguay's migration legislation dates back to the beginning of the century. Recently, however, a multidisciplinary commission was established to bring this legislation into line with present circumstances. A Bill on the

subject was submitted to Parliament for discussion in November 1997. It envisages the creation of information and advisory services for migrants. The text is appended for information.

3. No. Uruguay has traditionally been a country open to migrants and so far no manifestations of racism or xenophobia have been recorded.

4. Uruguay is considering the possibility of acceding to the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families. It has already, by Law No. 12030 of 27 November 1953, ratified ILO Convention 97.

Ministry of the Interior
Ministry of Foreign Affairs
Ministry of the Economy and Finance
Ministry of Education and Culture
Ministry of Transport and Public Works
Ministry of Industry, Energy and Mining
Ministry of Labour and Social Security
Ministry of Public Health
Ministry of Livestock, Agriculture and Fisheries
Ministry of Tourism
Ministry of Housing, Regional Planning and the Environment

Montevideo,

President of the General Assembly
Mr. Hugo Batalla

Sir,

The Executive has the honour to submit for consideration the enclosed Bill regulating the entry of persons into and their departure from the country, as well as the sojourn of foreigners within the country.

I. General

1. Brief recapitulation of Uruguay's migration legislation

It is common knowledge that international migration affects human society in many ways, not only from the demographic, but also the economic, labour, medico-legal, sociological and political points of view. It has, on the other hand, been a major factor promoting the progress of humanity and is closely associated with its history.

There is no denying the fact that the gradual and steady development of many of the countries of America can be attributed to immigration, and that for long periods - mainly during the nineteenth century and the beginning of the twentieth century - they were completely open to foreigners. Subsequently, this open-door period gave way to one characterized by the imposition of increasing restrictions on foreign immigration based on various reasons in the general interest. It may be said that today there is no country which has not, in one way or another, severely restricted foreign immigration.

Uruguay followed this trend. Immigrants could enter the country quite freely until 1932, when for the first time a Law (Law No. 8868 of 19 July 1932) introduced permanent and general prohibitions on the admission of foreigners for reasons of public policy. This Law supplemented the previous Law No. 2096 of 18 June 1890, now obsolete, which, patterned on the Argentine law of that time, reflected a policy of promoting "directed migration", or what demographers now call "organized migration", without making provision for general grounds for not admitting foreigners to the country.

In the democratic and liberal States, migration, covering both emigration and immigration, simply implies the application of the principle of freedom inherent in the human person, recognizing that such freedom of movement should be restricted only in the general interest, as in the case of all human rights.

The constitutions of these countries proclaim this right to emigrate and immigrate in a liberal manner and leave its regulation up to the law. Thus the principle of the freedom of persons to enter and depart from a country constitutes the general rule, and exceptions or restrictions reflecting constitutional or legislative provisions are invariably based on the general interest.

In Uruguay, this concept was expressly embodied in article 36 of the 1934 Constitution and recurs in subsequent constitutional texts, as in article 37 of the present Constitution which proclaims, together with the principle of free entry, the requirement that immigration should be regulated by law but that "in no case shall an immigrant be admitted who has physical, mental, or moral defects which may injure society". The period during which the 1934 Constitution was in force saw the adoption of Law No. 9604 of 13 October 1936 which is still in force except for a number of partial derogations required by the 1952 Constitution in respect of questions of administrative litigation. This Law increased the number of prohibitions on the admission of foreigners laid down in the previous Law of 1932, as well as grounds for expulsion.

Since this period, therefore, Uruguay has possessed a body of immigration regulations designed to strengthen the protection of public order and security within the country consisting of prohibitions on entry and grounds for expulsion, i.e. criminality and politico-social, health and economic reasons. However, the constitutionality of some of the provisions of this Law has been questioned, it suffers from a large number of shortcomings and fails to offer an adequate, fair and effective solution to various new and serious problems that arise in connection with the entry and sojourn of foreigners in the country.

On the other hand, the 1936 Law which merely established immigration regulations also failed to regulate organized or planned immigration in the light of the country's demographic and economic requirements, which are of basic importance from the standpoint of migration policy.

2. The Executive's 1988 Bill

On 11 December 1988 the Executive submitted to Parliament a Bill regulating the entry and departure of persons into and from the country, as well as the sojourn of foreigners.

This important piece of draft legislation, based on the most recent solutions adopted in matters of migration and drawn up with the technical assistance to experts from the International Organization for Migration, failed to obtain parliamentary approval at that time.

It was claimed that the Bill would replace the body of legislation referred to above with a single law, maintaining the principle of spontaneous immigration, which had been the pride of the Republic, without overlooking the need to recognize and promote organized immigration to the extent necessary and subject to the country's economic and financial possibilities, and in both cases laying down adequate standards guaranteeing an effective migration policy.

However, in the light of subsequent developments in the country, it was obvious that the Bill suffered from a number of shortcomings that a general migration law would be unable to make good at the present time, mainly in respect of grounds for refusing foreigners admission, criminal offences and penalties, as well as administrative remedies and judicial procedures that ensured the required balance between the need for social protection implied by the very concept of migration and the existence of minimum procedural guarantees to which the persons concerned should be entitled.

3. Sources of the Bill

It is clear that the Bill which is now being submitted to Parliament for consideration reflects the same reasoning and contains the same principles as that of 1998. For example, the fact that some of its provisions have been reproduced word for word and only drafting changes made in others reveals that the same approach is being used. For this reason, various parts of this description of its background duplicate the one drawn up at the time to justify the Executive's initiative.

The relevant legislation of the Latin American countries, and especially that of Argentina, Chile, Costa Rica and Paraguay, which is regarded as being the most up to date, was consulted and used as a source of ideas. The two latter countries possess the most advanced migration legislation (Costa Rica's General Law No. 7033 of 1986 on Migration and the Status of Foreigners and Paraguay's Law No. 978 of 1994 on Migration), and it was therefore used as background material and a source of inspiration for various provisions of the Bill and to make good some of the shortcomings of that of 1988 which could no longer be overlooked; the new Bill accordingly includes provisions on specific criminal offences and penalties in migration matters and judicial remedies and procedures ensuring protection of the rights of foreigners recognized by our legal system and, naturally, by the provisions of the Bill themselves.

Lastly, it includes a number of innovative provisions reflecting the need to harmonize the solutions adopted in respect of the entry and sojourn of foreigners with other regulations on political asylum and the extradition of offenders. In this way, and based on the proposals made in the Bill on asylum submitted by the Executive some time ago to Parliament and now under consideration, express reference has been made in the text to the grounds for a refusal to admit foreigners as a means of preventing the entry into or sojourn in the country of terrorists as an additional means of combating this scourge which has ravaged the world.

4. Desirability of a general law on migration

It is precisely this last point that is one of the factors - although not the only one - that prompted the Executive to submit a general law on migration to the Legislature for consideration.

A great deal of thought has been given to international terrorism in the context of migration movements as a problem that could not be disregarded in view of the events that the country has experienced in recent times and their repercussions at the international relations level.

The Executive had already taken this situation into account in the Bill on asylum by adopting the approach used in various agreements, including some that have been acceded to by Uruguay; one of these agreements is the Extradition Treaty between Uruguay and Spain of 28 February 1996, which has already been ratified and is in force. Its provisions make it impossible for a terrorist to claim asylum by not classifying the acts for which he is responsible as political crimes. This provision was used in the text on asylum and it was both natural and inevitable that it should be included in the Bill on migration. In point of fact a terrorist may try to enter or stay in the country in various ways - either by requesting asylum or political asylum and invoking the concept which defines political offences only in terms of a person's motives, by requesting during the extradition process that account should be taken of the political nature of the offence for which he is held responsible based on the same subjective criterion, or yet by entering the country in an illegal or clandestine manner and requesting the application of migration regulations governing the sojourn of foreigners, or even arranging his entry under such regulations. If these regulations fail to specify grounds for refusal of admission or for the expulsion of foreign terrorists or persons who are members of organized groups which engage in terrorist activities to achieve their purposes, such undesirable individuals will always find ways of remaining in the country. For this reason, the Bill contains the same kind of provisions included in the Bill on asylum by specifying as grounds for refusal of admission and for the expulsion of foreigners their status as persons responsible for terrorist acts or members of groups that engage in such acts in order to achieve their ends.

It is to be noted in this connection that the Bill goes beyond protection against terrorism as a means of social defence. The Executive realizes that a democratic country's migration law must also include - as is done in the Bill - grounds for refusal of admission and the expulsion of foreigners based on participation in organizations which, by acts of violence, undermine democratic institutions, the state of law and the representative system of government, including acts apart from those which are regarded as terrorist acts in the narrow sense.

The Executive's initiative is, of course, motivated by other important considerations. Uruguay's domestic legislation on migration is obsolete and incomplete and some of its provisions are inapplicable at the present time, and in addition it is becoming increasingly difficult to cope with the new and difficult situations that arise in this area, such as those connected with international terrorism. It was therefore considered that the constitutional directive to the effect that "immigration should be regulated by law" must be

reformulated and made to reflect the country's present needs. An end must be put to the present situation in which, apart from the obsolete laws referred to, and in many cases in spite of them, regulations, resolutions, instructions and simple in-house orders issued by the administration supplement the various regulations on the subject whose formulation, in accordance with constitutional directives, have the force of law.

5. The main objectives of the Bill

The Bill, like that of 1988, is designed to replace the laws in force by a single text. The principle of spontaneous immigration is retained and its various aspects regulated, but at the same time organized immigration is recognized and regulated to the extent required, subject to the country's economic and financial possibilities. In both cases suitable provisions ensure effective control over migration.

The solutions proposed imply strict respect for the constitutional provision that regulates the entry and sojourn of foreigners in the country and that proclaims the fact that immigration is regulated by law and the principle of free entry, providing that the immigrant is not suffering from "physical, mental or moral defects which may injure society".

The Bill takes into account the constitutional principle and directive whose twofold objective is to regulate, on the one hand, spontaneous immigration by provisions concerning entry, sojourn and departure, by defining specific categories of migrants, by describing grounds for refusal of admission and for expulsion based on reasons in the general interest (public order, internal security, public health and economic), by specifying - to the extent required by the social protection of the country - criminal and administrative offences and penalties, and by protecting the rights of the persons concerned by means of guarantees of administrative proceedings, administrative litigation and in some cases legal proceedings, with a view to the possible application of criminal sanctions and refoulement, refusal of admission and expulsion, thereby seeking to present a comprehensive body of immigration regulations.

In this respect, the solutions adopted are also fully compatible with the international obligations assumed by Uruguay. In view of its importance, and because the Bill is fully in accordance with it, it is worth noting that article 22 of the American Convention on Human Rights (Pact of San José, Costa Rica) states that the exercise of the right of every person to move about in, to reside in, or to leave any country freely "may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others".

On the other hand, the Bill also seeks to regulate organized immigration, taking into account the country's demographic, economic, social and cultural needs whose satisfaction is in the interest of the State and is intended to improve the quality of life of the population, as stated in its article 1.

The Bill consists of an introductory title as well as three others which deal with the administrative organization of categories of migrants, grounds for refusal to admit migrants, their entry and sojourn, the refoulement and expulsion of foreigners, criminal and administrative sanctions, administrative remedies and judicial proceedings, entry, sojourn and departure controls, international transport enterprises, financial resources, organized immigration, Uruguayans abroad and final provisions.

6. The Bill and migration problems in the Common Market of the Southern Cone (MERCOSUR)

The States parties to MERCOSUR intend to draw up common regulations in respect of migration in the future, since the Treaty of Asunción contains no express references to the question of migration and the free movement of persons - which obviously has to be tackled at some stage in any integration process of a common market nature. However, since the Treaty states that the formation of a common market implies the free movement of goods, services and factors of production, it may be said that labour migration is implicit in the reference to the free movement of factors of production, which includes the free movement of the labour factor and hence the human factor.

Since MERCOSUR constitutes an integrated area with a functioning common market, its migration policy - or at least its most important aspects - must one day be common to all its members. As regards third countries, the first step must be taken through intergovernmental cooperation and legislative harmonization in order subsequently to bring about the adoption of uniform provisions ensuring a compatible common migration policy in respect of border controls and the gradual elimination of frontiers within the grouping so as to ensure the free movement of persons within the integrated area. As regards this latter aspect, namely, relations within MERCOSUR, it would not appear reasonable to maintain national migration policies since the area is one in which the free movement of goods, services and factors of production is to take place.

Nevertheless, there is no denying the fact that the free movement of persons invariably lags well behind the free movement of goods, services and capital because of the difficulties encountered in dismantling national migration policies and because the various obstacles to the free movement of persons cannot be overcome rapidly.

It is clear that, at the present time, since the individual is regarded as one of the factors of production that the Treaty of Asunción includes under the free movement heading, this point is of importance in view of the possibility of the nationals of States parties moving about within their territory in search of work and will most probably be the subject of common regulations in the near future.

In the meanwhile, and until such time as bilateral or multilateral migration provisions are negotiated and brought into force, the domestic legislation of each individual State party will remain in force; this fact is expressly recognized in article 2 of the Bill.

II. Special part

1. The introductory title of the attached Bill begins with an article describing the purpose of the law and emphasizing that it constitutes migration legislation having the twofold objective of regulating not only the entry and sojourn of foreigners in the country in accordance with the principle of spontaneous migration but also international migratory movements in the light of demographic, economic, social and cultural requirements, thereby affirming the importance of organized emigration.

The provisions that follow deal with the scope of the law and state that it is applicable to foreigners coming from any country with the following exceptions: 1. Persons from countries members of MERCOSUR insofar as derogations have been made on a bilateral or multilateral basis, and 2. Those enjoying special status (diplomatic officials, etc.) on the basis of international treaties signed and ratified by Uruguay.

2. Title 1 deals with institutional aspects in respect of bodies responsible for the application of the law and describes their general functions.

In accordance with the Bill's provisions, the administrative bodies competent to ensure the application of the law are the Ministry of the Interior, the National Migration Department (which is subordinate to the Ministry of the Interior) and the National Migration Council (which is part of the system of the Ministry of the Interior). The text then goes on to specify the powers and functions of each of these bodies and states that the Ministry of the Interior and the National Migration Department are responsible for the implementation of migration policy and that the National Migration Council acts as the advisory body in such matters. The Ministry of the Interior is empowered to delegate certain powers to the National Migration Department. Moreover, in order to make the services provided more efficient, the Ministry of the Interior is authorized to contract the information services and equipment required for the compilation of migration records.

3. Title 2 deals with "categories of migrants" - a matter of particular importance in that this provision can be used to classify each foreigner in a certain category or subcategory on the basis of his reasons for entering the country or his work.

A reliable classification of entry and sojourn categories will make it possible to create a valuable source of data facilitating statistical analysis, such information being indispensable for the purpose of evaluating the results of various migration programmes; these data will in turn be of particular importance in formulating migration policies.

The most important features of the "categories of migrants" set out in Title 2 can be summarized as follows:

(a) Unlike other legislation that classifies foreigners as "immigrants" and "non-immigrants" or "permanent and temporary", it was decided in the Bill to link categories of entry with a less abstract concept but one

which carried greater legal weight, such as "residence" which is the most important aspect of the "domicile" concept referred to in article 24 of Uruguay's Civil Code.

"Residence", if accompanied by the intention of settling permanently or temporarily in the country, offers an adequate conceptual framework for classifying the entry or sojourn of foreigners as "resident" (permanent or temporary) and "non-resident".

(b) The permanent residents heading, covering spontaneous and assisted immigrants, has been extended to include two new entry categories, namely, immigrants with capital and money to invest, in order to attract to the country foreigners with resources of their own or who transfer financial or technological resources with a view to engaging in productive activities considered to be in the country's interest.

(c) Retired persons, pensioners or persons of independent means have been included in a new subcategory of the "permanent residents" category in line with the regulations to be drawn up in respect of these persons as well as immigrants with capital specifying the requirements that must be satisfied by persons requesting entry into the country under the subcategories referred to in order to enjoy the benefits and exemptions provided for by law.

4. Title 3 deals with the grounds on which the entry and admission of foreigners may be forbidden. In this connection, special account was taken of article 37 of the Uruguayan Constitution which states that "in no case shall an immigrant be admitted who has physical, mental, or moral defects which may injure society". It was also borne in mind that the American Convention on Human Rights states that the right of entry may be restricted by law "to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others". Law No. 9604 of 13 October 1936 concerning undesirable foreigners, the 1988 Bill, the migration legislation of Costa Rica and Paraguay and the Bill on asylum submitted to Parliament this year - all of which have been referred to above - were also consulted.

As in the past, the various grounds for refusal of admission were enumerated, depending on whether the foreigners concerned suffered from any physical or mental defects and whether their capacity to work was diminished because of physical defects or personal history. Among the grounds for refusal to admit foreigners on the basis of their personal history that are of particular importance are those set out in article 34, paragraph 4, namely, offences under the ordinary law terrorist acts (provided for in the Extradition Treaty between Uruguay and Spain of 28 February 1996) and the one referred to in paragraph 9, which prohibits the entry of persons who are members of organizations that commit violent acts against democratic regimes or that pursue unlawful objectives - regardless of their political motives - by terrorist means.

5. Title 4, consisting of five chapters, deals with various situations connected with the entry and sojourn of foreigners in the country.

Chapter 1 sets forth the following principles:

(a) Foreigners wishing to enter the country as residents (permanent or temporary) must obtain a permit issued by the National Migration Department.

(b) Foreigners resident abroad wishing to enter the country as residents must obtain the required entry permit.

(c) "Non-residents", with the exception of those covered by article 33, paragraphs 4, 8, 9 and 10, do not require a permit to enter the country but may or may not require a consular visa in accordance with the agreements, treaties and legislation in force.

Chapter 3 offers foreigners the possibility of changing their migration category, in other words, of being classified in a category or subcategory different from that in which they entered the country. For example, "temporary residents" can become "permanent residents" and, exceptionally, "non-residents" can become "temporary residents".

The conditions, requirements, desirability and procedure for changing from one migration category to another will be laid down by law.

Chapter 4 deals with illegal entry or sojourn, indicating the reasons or circumstances that would place a foreigner in this situation, and authorizes the Ministry of the Interior to take the necessary measures in each specific case. The foreigner may be asked to regularize his situation as a migrant if, by virtue of his profession, period of residence, relationship to Uruguayans or other reasons, his sojourn may be regarded as being in the country's interest. Otherwise the Ministry of the Interior may inform him that he must leave the country within a certain time or issue an order for his expulsion.

Lastly, Chapter 5 covers cases which, because of non-compliance with the obligations assumed by foreigners, give rise to situations requiring the cancellation of their residence and sojourn permits as either permanent or temporary residents as well as those of "non-residents". The Ministry of the Interior is authorized to cancel the sojourn permits of foreigners who fail to satisfy the conditions on which they were permitted to enter the country.

6. Title 5 contains provisions concerning refoulement and expulsion.

It was considered desirable to make this distinction since the procedure and the authority competent to order these two measures vary.

Refoulement is the act by which the authority responsible for immigration control on entry into the country refuses a foreigner admission and orders his immediate return to the country of embarkation or origin, or a third country which will admit him. Refoulement is ordered when the foreigner, at the time of entering the country, fails to present the necessary

documents or presents forged documentation, when one of the grounds for refusal of admission provided for by law is applicable, or if he is discovered trying to enter the country by avoiding immigration control.

Expulsion, on the other hand, is an act ordered by the competent administrative or judicial authority by which a foreigner is expelled from national territory.

Expulsion takes place in the various situations covered by article 62. However there is neither expulsion nor refoulement if the foreigner has requested asylum in the country.

Under the Bill, the power to order expulsion is divided between the administrative and judicial authority, the former (Ministry of the Interior and National Migration Department) being empowered to order expulsion on grounds of a migration nature and the latter (Criminal Appeal Court) authorized to order expulsion on grounds of a non-migration nature. However, it has been considered logical and in line with the administrative nature of migratory matters that any initiative in ordering the expulsion of a foreigner should be taken by the Executive.

Another important point that is regulated by the Bill concerns rejection of a request for extradition; it does not exclude the possibility that a foreigner may be expelled on one of the grounds provided for in the law but makes an exception of the grounds set out in article 34, paragraphs 4 and 9, if the rejection is based on a political offence plea. This formulation corresponds to that contained in the Bill on asylum and seeks to avoid contradictory expulsion or extradition decisions by using the criterion of prevention as the decisive factor, in other words, the request submitted in the first place.

7. Title 6 contains a description of specific migration-related criminal offences and provides for a system of administrative penalties. The fact that it is proposed to characterize such offences reflects the increasing need for social protection in response to illegal immigration, which is not only increasing but also assuming new forms and is being supported by intermediaries who profit from the needs of those who, for various political, economic, criminal and other reasons, fail to satisfy the conditions laid down by legislation for legal entry into the country.

The criminal offences in question are enumerated in the migration legislation of most countries, and that of Chile, Costa Rica, Paraguay and Switzerland was in particular consulted when the Bill was being drawn up.

Chapter 2 empowers the National Migration Department to impose administrative fines of specific amounts on employers and the proprietors or managers of hotels and boarding houses, as well as on international transport enterprises, that violate the prohibitions or fail to comply with their obligations under the law.

8. Title 7 consists of two chapters which refer to the procedural guarantees enjoyed by wrongdoers. Chapter 1, after recapitulating the administrative remedies listed in article 317 of the Constitution, specifies

remedies in connection with expulsion, which are handled as a matter of priority and have the effect of suspending the decision impugned until such time as a final decision is reached at the administrative level.

Chapter 2 deals with judicial procedures and lays down the following rules:

A. Offences connected with migration are dealt with by the ordinary criminal courts.

B. Criminal proceedings are initiated on the basis of a substantiated complaint by the National Migration Department - an approach that brings into harmony the administrative nature of migration and the need for a certain amount of flexibility in this matter, as well as the possibility, in certain cases, of exercising the option referred to in D below.

C. The Criminal Appeal Court handles any cases of expulsion that have to be referred to the judicial authorities; it does so at a single hearing since its decisions involve foreigners and their effectiveness depends on their being taken as a matter of urgency without affecting the legal guarantees implying the intervention of a judicial court - guarantees that are strengthened by its collegiate nature.

D. In the case of certain migration-related offences committed by a foreigner, the Administration may decide to bring criminal charges or call directly for his expulsion, thereby exercising a discretional power based on expediency or appropriateness.

9. Title 8 and its three chapters contain provisions regulating the entry, sojourn and departure of persons.

The first of these chapters, apart from making it compulsory for persons to enter and depart from the country at specific authorized points, indicates the documentation that must be presented by foreigners at the time of migration control, making a distinction between foreigners entering the country as permanent and temporary residents, on the one hand, and non-residents on the other.

Chapter 2 which concerns "sojourn control" makes it illegal to give work to foreigners who, under the law, are not entitled to engage in gainful employment depending on whether they are temporary residents or non-residents.

Similarly, it makes it illegal for owners, administrators or managers of hotels, boarding houses or similar establishments to provide accommodation to foreigners who are illegally in the country.

Chapter 3 contains provisions on departure control, for both Uruguayans as well as foreigners.

10. Title 9 specifies the responsibilities of international means of transport, which are required to submit to the controls laid down by law, and are responsible for the transport of passengers and crew as laid down.

The law also proclaims as a public duty their obligation to carry foreigners who have been expelled out of the country; this obligation is limited to one seat when the vehicle has no more than 200 seats and 2 seats if it has more.

11. Title 10 indicates the financial resources of the National Migration Department, which consist of the proceeds from the services it provides, the amounts appropriated under the general budget, donations and bequests received and the fines imposed in the exercise of its functions.

12. Title 11, which deals with organized immigration, contains provisions intended to promote the immigration of foreigners or groups of foreigners in accordance with the country's requirements.

Chapter 1 states that such promotion activities are designed to secure qualified manpower to make good the present shortage when such manpower is a source of scientific and technological know-how, when the persons concerned settle in areas of the country whose development is being promoted as a matter of priority and when they bring in capital for investment in productive activities.

The integration of such immigrants in the economic life of the country is to be achieved through planned migration programmes reflecting needs highlighted by development or investment plans.

Chapters 2, 3 and 4 define subcategories of assisted immigrants, immigrants with capital and investors, and retirees, pensioners and persons of independent means respectively; the advantages, benefits and privileges to which they are entitled are also described.

Lastly, chapter 5 describes the regime applicable to frontier immigrants, seasonal workers and sugar cane workers.

13. Title 12 lays down general principles in respect of Uruguayans abroad, and deals with the functions of the competent bodies, emigration and the return of Uruguayans residing abroad, as well as of their foreign spouses, children and parents.

In recent years the rate of migration has clearly outstripped the pace at which migration legislation has been updated and a large number of aspects of migration no longer covered by it. In this new context, some of the traditional countries of immigration such as ours will eventually also become countries of emigration and encounter difficulties due to the fact that their legislation is designed only to regulate various aspects of immigration.

For this reason, it was considered that the Bill should proclaim certain fundamental principles enabling Uruguayans residing abroad to enjoy the best possible legal and social protection.

14. Lastly, Title 13 states that the Executive will, if necessary, modify the organization of the National Migration Department and bring its administrative structure into line with its functions, and will accordingly amend the law on the subject. In this connection, it should be noted that

despite its scope, which suggests that it deals with migration problems in detail, the Bill is confined to the enunciation of fundamental principles which will be elaborated on by the adoption of appropriate regulations.

In the view of the Executive, the attached Bill contains long-overdue responses to migration problems and offers suitable and effective solutions that will make it possible to cope with the new and at times serious situations which arise in connection with the entry and sojourn of foreigners in Uruguay and are regarded as being fully compatible with the provisions of article 37 of the Constitution and the obligations assumed by the country when it signed and ratified the international instruments on human rights pertaining to migration.

Note: The subsequent annexes have been placed in the secretariat archives and may be consulted on request.